ACT X OF 1873.

Notification by the Government of India, Foreign Department, Judicial No. 67, dated Simla, the 19th June 1876.

The Governor-General in Council is pleased to declare that the Indian Oaths Act (Act X of 1873) applies to the Province of Mysore, subject to the following modification, (that is to say) in section 7 for the words "High Court" the words "Judicial Commissioner of Mysore" shall be substituted.*

* As to this, however, see Notification of the Dewan of Mysore No. 24, dated the 28th April 1881, which directs the substitution of "Chief Judge" and "Chief Court" for "Judicial Commissioner" and "Court of the Judicial Commissioner" respectively in all Notifications and Rules having the force of law in Mysore.

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ACT X OF 1873.

(RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE 8TH APRIL 1873.

An Act to consolidate the law relating to Judicial Oaths, and for other purposes.

Whereas it is expedient to consolidate the law relating to judicial oaths, affirmations and declarations, and to repeal the law relating to official oaths, affirmations and declarations; It is hereby enacted as follows:— Preamble.

I.—*Preliminary.*

1. This Act may be called "The Indian Oaths Act, 1873." Short title.

It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the territories of Native Princes and States in alliance with Her Majesty. Local extent

[*Commencement.*] *Repealed by Act XII* of 1876 *before the present Act was extended to Mysore.*

2. [*Repeal of enactments.*] *Repealed by Act XII of* 1876 *before the present Act was extended to Mysore.*

3. Nothing herein contained applies to proceedings before Courts Martial, or to oaths, affirmations or declarations prescribed by any law which, under the provisions of the Indian Councils Act, 1861, the Governor-General in Council has not power to repeal. Saving of certain oaths and affirmations.

II.—Authority to administer Oaths and Affirmations.

4. The following Courts and persons are authorized to administer, by themselves or by an officer empowered by them in this behalf, oaths and affirmations in discharge of the duties or in exercise of the powers imposed or conferred upon them respectively by law:— Authority to administer oaths and affirmations.

(*a*) all Courts and persons having by law or consent of parties authority to receive evidence;

(*b*) the Commanding Officer of any military station occupied by troops in the service of Her Majesty:

Provided:

(1) that the oath or affirmation be administered within the limits of the station, and

(2) that the oath or affirmation be such as a Justice of the Peace is competent to administer in British India.

Sections 5--8.

III.—Persons by whom Oaths or Affirmations must be made.

Oaths or affirmations to be made by—

witnesses;

5. Oaths or affirmations shall be made by the following persons :—

(*a*) all witnesses, that is to say, all persons who may lawfully be examined, or give, or be required to give, evidence by or before any Court or person having by law or consent of parties authority to examine such persons or to receive evidence ;

interpreters;

(*b*) interpreters of questions put to, and evidence given by, witnesses ; and

jurors.

(*c*) jurors.

Nothing herein contained shall render it lawful to administer, in a criminal proceedings, an oath or affirmation to the accused person, or necessary to administer to the official interpreter of any Court, after he has entered on the execution of the duties of his office, an oath or affirmation that he will faithfully discharge those duties.

Affirmation by Natives or by persons objecting to oaths.

6. Where the witness, interpreter or juror is a Hindu or Muhammadan,

or has an objection to making an oath,

he shall, instead of making an oath, make an affirmation.

In every other case the witness, interpreter or juror shall make an oath.

IV.—Forms of Oaths and Affirmations.

Forms of oaths and affirmations.

7. All oaths and affirmations made under section 5 shall be administered according to such forms as the High Court may from time to time prescribe.

And, until any such forms are prescribed by the High Court, such oaths and affirmations shall be administered according to the forms now in use.

Explanation.—As regards oaths and affirmations administered in the Court of the Recorder of Rangoon and the Court of Small Causes of Rangoon, the Recorder of Rangoon shall be deemed to be the High Court within the meaning of this section.

Power of Court to tender certain oaths.

8. If any party to, or witness in, any judicial proceeding offers to give evidence on oath or solemn affirmation in any form common amongst, or held binding by, persons of the race or persuasion to which he belongs, and not repugnant to justice or decency, and not purporting to affect any third person, the Court may, if it thinks fit,

Sections 9—14.

notwithstanding anything hereinbefore contained, tender such oath or affirmation to him.

Court may ask party or witness whether he will make oath proposed by opposite party.

9. If any party to any judicial proceedings offers to be bound by any such oath or solemn affirmation as is mentioned in section 8, if such oath or affirmation is made by the other party to, or by any witness in, such proceedings, the Court may, if it thinks fit, ask such party or witness, or cause him to be asked, whether or not he will make the oath or affirmation:

Provided that no party or witness shall be compelled to attend personally in Court solely for the purpose of answering such question.

Administration of oath if accepted.

10. If such party or witness agrees to make such oath or affirmation, the Court may proceed to administer it, or, if it is of such a nature that it may be more conveniently made out of Court, the Court may issue a commission to any person to administer it, and authorize him to take the evidence of the person to be sworn or affirmed and return it to the Court.

Evidence conclusive as against person offering to be bound.

11. The evidence so given shall, as against the person who offered to be bound as aforesaid, be conclusive proof of the matter stated.

Procedure in case of refusal to make oath.

12. If the party or witness refuses to make the oath or solemn affirmation referred to in section 8, he shall not be compelled to make it, but the Court shall record, as part of the proceedings, the nature of the oath or affirmation proposed, the facts that he was asked whether he would make it, and that he refused it, together with any reason which he may assign for his refusal.

V.—Miscellaneous.

Proceedings and evidence not invalidated by omission of oath or irregularity.

13. No omission to take any oath or make any affirmation, no substitution, of any one for any other of them, and no irregularity whatever, in the form in which any one of them is administered, shall invalidate any proceeding or render inadmissible any evidence whatever, in or in respect of which such omission, substitution or irregularity took place, or shall affect the obligation of a witness to state the truth.

Persons giving evidence bound to state the truth.

14. Every person giving evidence on any subject before any Court or person hereby authorized to administer oaths and affirmations shall be bound to state the truth on such subject.

Sections 15-16.

Amendment of Penal Code sections 178 and 181.

15. The Indian Penal Code sections 178 and 181 shall be construed as if, after the word " oath," the words " or affirmation " were inserted.

Official oaths abolished.

16. Subject to the provisions of sections 3 and 5, no person appointed to any office shall, before entering on the execution of the duties of his office, be required to make any oath, or to make or subscribe any affirmation or declaration whatever.

SCHEDULE.

[*Enactments repealed.*]

Repealed by Act XII of 1873 *before the present Act was extended to Mysore.*